

State of South Dakota

EIGHTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2010

804R0750

HOUSE CONCURRENT RESOLUTION NO. 1017

Introduced by: Representatives Brunner, Cronin, Frerichs, Hoffman, Kopp, Olson (Betty), Russell, Schrempp, Sly, Sorenson, Van Gerpen, and Verchio and Senators Rhoden, Bartling, Gant, Howie, Maher, Novstrup (Al), and Peterson

1 A CONCURRENT RESOLUTION, Opposing federal control of state water rights through
2 unnecessary expansion of the federal Clean Water Act.

3 WHEREAS, over the past thirty-five years, the federal Clean Water Act (CWA), supported
4 by other federal, state, and local laws, has governed our nation's waters and has helped ensure
5 that Americans enjoy some of the cleanest rivers and lakes in the world; and

6 WHEREAS, the Clean Water Act has struck a proper balance between protecting our clean
7 water and maintaining state, local, and federal regulatory authority and responsibilities; and

8 WHEREAS, states and local governments exercise abundant care over the water and land
9 use decisions that are within state and local government jurisdiction; and

10 WHEREAS, proposed congressional legislation, "The Clean Water Restoration Act" is
11 intended to make extreme changes to the Clean Water Act that threaten to destroy the careful
12 intergovernmental balance that has been the hallmark of the law during its long history; and

13 WHEREAS, this legislation would give the U.S. Environmental Protection Agency (EPA)
14 and the U.S. Army Corps of Engineers (the Corps) authority over "all interstate and intrastate



1 waters and their tributaries," including nonnavigable waters, thereby granting to Congress
2 authority far beyond the original scope of the Clean Water Act. This would dramatically expand
3 the reach of the federal bureaucracy and would fundamentally erode the ability of state and local
4 governments to manage their own water resources; and

5 WHEREAS, the legislation would also grant EPA and the Corps the authority to regulate
6 "activities affecting" these newly defined waters, whether public or private activities, regardless
7 of whether the activity is occurring in, or may impact, water at all. This could result in nearly
8 limitless federal permitting requirements which intrude upon or preempt local government land
9 use decisions; and

10 WHEREAS, a recent nation-wide poll shows that sixty-three percent of Americans surveyed
11 oppose the proposed extreme changes to the Clean Water Act. Of that sixty-three percent, forty-
12 seven percent "strongly oppose" any change in the CWA that would give the federal government
13 veto power over state and local governments when it comes to local land and water use
14 decisions:

15 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-
16 fifth Legislature of the State of South Dakota, the Senate concurring therein, that the Legislature
17 expresses its strong opposition to any federal legislation that would expand the reach and scope
18 of the Clean Water Act. We call on Congress to preserve the traditional power of states over
19 land and water use decisions and to avoid unnecessary expansions of the regulatory reach of the
20 CWA.